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Attorneys for Defendants

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 OAKLAND DIVISION

MARGARET KERR,	)	
	)	No. C 07-5116-WDB
Plaintiff,	)	
	)	
v.	)	<b>ANSWER</b>
	)	
MICHAEL CHERTOFF, Secretary,	)	
Department of Homeland Security;	)	
EMILIO T. GONZALEZ, Director, United States	)	
Citizenship and Immigration Services;	)	
MICHAEL B. MUKASEY, Attorney General;	)	
ROSEMARY MELVILLE, District Director,	)	
United States Citizenship and Immigration	)	
Services; and ROBERT MUELLER, Director	)	
of Federal Bureau of Investigations,	)	
	)	
Defendants.	)	

The Defendants hereby submit their answer to Plaintiff's Complaint for Writ in the Nature of Mandamus.

1. Paragraph One consists of Plaintiff's characterization of the action for which no response is required; however, to the extent that such allegations are deemed to require an answer, they are denied.

**PARTIES**

2. Defendants admit the allegations in Paragraph Two.

1 3. Defendants admit the allegations in Paragraph Three.

2 4. Defendants admit the allegations in Paragraph Four with the exception that Michael B.  
3 Mukasey is the Attorney General of the United States.

4 5. Defendants admit the allegations in Paragraph Five.

5 6. Defendants admit the allegations in Paragraph Six.

6 7. Defendants admit the allegations in Paragraph Seven.

7 **JURISDICTION**

8 8. Paragraph Eight consists of Plaintiff's allegations regarding jurisdiction, to which no  
9 responsive pleading is required.

10 **VENUE**

11 9. Paragraph Nine consists of Plaintiff's allegations regarding venue, to which no responsive  
12 pleading is required.

13 **EXHAUSTION OF REMEDIES**

14 10. Defendants deny the allegations in Paragraph Ten.

15 **CAUSE OF ACTION**

16 11. Defendants admit the allegations in Paragraph Eleven with the exception that the birth  
17 certificate was submitted on July 26, 2004 rather than July 23, 2004.

18 12. Defendants admit the allegations in Paragraph Twelve.

19 13. Defendants deny the allegations in Paragraph Thirteen.

20 14. Defendants admit the allegations in Paragraph Fourteen.

21 15. Defendants admit the allegations in Paragraph Fifteen.

22 16. Defendants admit the allegations in Paragraph Sixteen.

23 17. Defendants are without sufficient information or knowledge to either admit or deny the  
24 allegations in Paragraph Seventeen.

25 18. Defendants admit the allegation in Paragraph Eighteen.

26 19. Defendants deny the allegations in Paragraph Nineteen.

27 20. Defendants are without sufficient information or knowledge to either admit or deny the  
28 allegations in Paragraph Twenty.

21. Defendants deny the allegations in Paragraph Twenty-One.

**PRAYER**

22. Paragraph Twenty-Two consists of Plaintiff's prayer for relief, to which no admission or denial is required; to the extent a responsive pleading is deemed to be required, Defendants deny this paragraph.

**FIRST AFFIRMATIVE DEFENSE**

Plaintiff's complaint fails to state a claim upon which relief may be granted.

**SECOND AFFIRMATIVE DEFENSE**

The court should dismiss the Complaint under Fed. R. Civ. P. 12(b)(1) for lack of subject matter jurisdiction.

WHEREFORE, Defendants pray for relief as follows:

That judgment be entered for Defendants and against Plaintiff, dismissing Plaintiff's Complaint with prejudice; that Plaintiff takes nothing; and that the Court grant such further relief as it deems just and proper under the circumstances.

Dated: December 7, 2007

Respectfully submitted,

SCOTT N. SCHOOLS  
United States Attorney

/s/  
EDWARD A. OLSEN  
Assistant United States Attorney  
Attorneys for Defendants